

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Willie Mae Horne

Case No. 08-80969

Chapter 13

Soc. Sec. No. xxx-xx-7487

Mailing Address: 2024 Collier Road, Durham, NC 27707-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on June 30, 2008, with the Chapter 13 plan being subsequently confirmed on October 14, 2008.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: \$1,544.00 per month.

To: \$1,544.00 per month through January, 2011, followed thereafter by \$1,111.00 per month, starting in February, 2011. The amended plan does not decrease the dividend to unsecured creditors, which, as reflected in the confirmed plan, provides for \$8,774.00 to general unsecured creditors.
3. The changed circumstances that justify the proposed modification are as follows:
 - A. The debtor is surrendering her interest in a 2006 Chevrolet Impala, for which the costs of repair have become excessive.
 - B. As previously approved by this court, the debtor has financed a replacement vehicle, with payments of \$414.00 per month to be paid directly to the lender, Santander Consumer Credit.
 - C. The debtor's medical expenses have increased significantly because of chronic high blood pressure, a worn foot ligament, and restorative dental work. The debtor has begun payroll deduction for a health savings account, but expects that her expenses will likely exceed the health savings account balance.
4. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.

5. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference. To facilitate the proposed modification, the Debtor hereby surrenders any interest she may have in collateral securing the following claims:

Creditor and Claim No.	Collateral
Drivetime Credit (claim no.7)	2006 Chevrolet Impala

At the time of the filing of the Debtor's Chapter 13 bankruptcy, the 2006 Chevrolet Impala had a fair market value of \$10,147.00.

At the time of the filing of the Debtor's Motion to Modify, the 2006 Chevrolet Impala had a fair market value of \$6,120.00.

The 2006 Chevrolet Impala has depreciated in the amount of \$4,027.00 since the filing of the Debtor's Chapter 13 bankruptcy.

That, pursuant to *In re Miller* (Unpublished, MDNC 99-81339), the Debtor's Chapter 13 plan has paid approximately \$5,491.60 to Drivetime Credit, exceeding the depreciation on the 2006 Chevrolet Impala in the amount of \$1,464.60.

6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

Appended Application for an Additional Attorney Fee

7. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, including, without limitation, the following:
- a. Calls from and to the Debtor to discuss changes in her situation which necessitate this motion, to explain the procedures and requirements involved, and to advise the Debtor accordingly; and
 - b. Contact with the Trustee's office concerning the proposed modification; and
 - c. Re-evaluating and recalculating the Chapter 13 plan in this case; and
 - d. Drafting this Motion and Certificate of Service; and
 - e. Service of the Motion on all interested parties, which includes all creditors scheduled in this case, at the expense of the undersigned law firm; and
 - f. Filing of the Motion; and
 - g. Prospective attendance with Debtor at the hearing upon the motion, if any; and
 - h. Prospective drafting and filing of the proposed Order and Deputy Clerk's Certificate of Service; and
 - i. Prospective follow-up instructions to client, as will be necessary, following the granting of this motion.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtor.

WHEREFORE, the Debtor prays that this Court grant her Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: February 10, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury Hicks

Koury Hicks

North Carolina State Bar No.: 36204

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

CERTIFICATE OF SERVICE

I, Koury Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on February 10, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
P.O. Box 3613
Durham, N.C. 27702-3613

Michael West
U.S. Bankruptcy Administrator
P.O. Box 1828
Greensboro, N.C. 27402-1828
2.

Willie Mae Horne
2024 Collier Road,
Durham, NC 27707-

Drivetime Credit
Attn: Managing Agent
P O BOX 29018
Phoenix, AZ 85038-

Christopher Lewis White, P.A.
Attorney At Law
PO Box 31428
Raleigh, NC 27622-

All creditors with duly filed claims as listed on PACER.

/s Koury Hicks

Koury Hicks

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)

Date: 2/8/11

Lastname-SS#: Horne-7487 MOD

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

SURRENDER COLLATERAL

Creditor Name	Sch D #	Description of Collateral
Santander Consumer		

Creditor Name	Description of Collateral
Drive Financial	

ARREARAGE CLAIMS ON RETAINED COLLATERAL

REJECTED EXECUTORY CONTRACT CLAIMS

Creditor Name	Sch D #	Arrearage Amount
Santander Consumer		
Wells Fargo		\$911

Creditor Name	Description of Collateral

LAD - DOT on PRINCIPAL RESIDENCE - OTHER REAL PROPERTY

Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Wells Fargo		\$831	n/a	n/a	\$831	
			n/a	n/a		
			n/a	n/a		

STD - SECURED DEBTS (Retain Collateral & Pay FMV OF Collateral)

Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			7.00			
			7.00			
			7.00			
			7.00			

STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
			7.00			
			7.00			
			7.00			
			7.00			
			7.00			

ATTORNEY FEES (Unpaid Part)

Law Offices of John T. Orcutt, P.C. \$500

SECURED TAXES

IRS Tax Liens

Real Property Taxes on Retained Realty

UNSECURED PRIORITY DEBTS

IRS Taxes

State Taxes

Personal Property Taxes \$14

Alimony or Child Support Arrearage

COSIGN PROTECT (Pay 100%) Int. Rate Payoff Amount

All "Co-Sign Protect Debts (See***)

GENERAL NON-PRIORITY UNSECURED Amount to Pay

DMI = \$183 \$6,063

PROPOSED CHAPTER 13 PLAN

\$ 1111 /month for 33 months, then

\$ N/A /month for N/A months.**

Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

* = Minimum of DMI x ACP, minus all co-sign protect debt.

** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

*** Co-sign protect on all debts so designated on filed schedules D, E and F

Final_MD_Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

Other Miscellaneous Provisions

In re **Willie Mae Horne**

Debtor(s)

Case No. **08-80969****SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Single	RELATIONSHIP(S): None.	AGE(S):
Employment:	DEBTOR	SPOUSE
Occupation	Teacher	
Name of Employer	Healthy Start Academy Charter School	
How long employed	3 Years	
Address of Employer	807 West Chapel Hill Street Durham, NC 27701	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ 5,482.00	\$ N/A
\$ 0.00	\$ N/A

3. SUBTOTAL

\$ 5,482.00	\$ N/A
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4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
b. Insurance
c. Union dues
d. Other (Specify): **Retirement Contribution**

Healthcare savings account

\$ 1,099.41	\$ N/A
\$ 112.00	\$ N/A
\$ 0.00	\$ N/A
\$ 325.92	\$ N/A
\$ 150.00	\$ N/A

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ 1,687.33	\$ N/A
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6. TOTAL NET MONTHLY TAKE HOME PAY

\$ 3,794.67	\$ N/A
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7. Regular income from operation of business or profession or farm (Attach detailed statement)

\$ 0.00	\$ N/A
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8. Income from real property

\$ 0.00	\$ N/A
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9. Interest and dividends

\$ 0.00	\$ N/A
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10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

\$ 0.00	\$ N/A
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11. Social security or government assistance

(Specify):

\$ 0.00	\$ N/A
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12. Pension or retirement income

\$ 0.00	\$ N/A
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13. Other monthly income

(Specify):

Tax Refund (12 Month Average based on 2009 refund)

\$ 166.67	\$ N/A
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\$ 0.00	\$ N/A
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14. SUBTOTAL OF LINES 7 THROUGH 13

\$ 166.67	\$ N/A
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ 3,961.34	\$ N/A
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16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ 3,961.34	
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(Report also on Summary of Schedules and, if applicable, on
Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

None Anticipated

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment

Other Utility Expenditures:

Cellular Phone	\$	75.00
Home Security Alarm System	\$	47.00
Cable Television	\$	140.00
Internet	\$	45.00
Total Other Utility Expenditures	\$	307.00

Other Expenditures:

Ch. 13 Plan Payment	\$	1,111.00
Personal Grooming	\$	60.00
Emergencies/Miscellaneous	\$	50.00
Vehicle payment	\$	414.00
Miscellaneous	\$	50.00
Total Other Expenditures	\$	1,685.00